

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

Carlos Adrian Plaza Estacio,)	Case No. 5:24-cv-00183-JDA
)	
Petitioner,)	
)	
v.)	OPINION AND ORDER
)	
Office of Immigration and Customs)	
Enforcement,)	
)	
Respondent.)	
_____)	

This matter is before the Court on a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 [Doc. 1] and a Report and Recommendation (“Report”) of the Magistrate Judge [Doc. 26]. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kaymani D. West, for pre-trial proceedings.

On May 30, 2024, the Magistrate Judge issued a Report recommending the case be dismissed for failure to prosecute. [Doc. 26.] The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [*Id.* at 5.] Petitioner did not file objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The

Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” (internal quotation marks omitted)).

The Court has reviewed the record in this case, the applicable law, and the Report for clear error. Having done so, the Court accepts the Report and Recommendation of the Magistrate Judge and incorporates it by reference. Accordingly, this case is DISMISSED with prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

June 28, 2024
Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.